

# PATENT COOPERATION TREATY

From the:  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

### WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:  James & Wells 9th Floor 6B Cawley Street Ellerslie Auckland NEW ZEALAND			Date of mailing <i>(day/month/year)</i> <b>10 FEB 2005</b>		
Applicant's or agent's file reference <b>230320PCX352</b>			<b>FOR FURTHER ACTION</b> See paragraph 2 below		
International application No. <b>PCT/NZ2004/000269</b>		International filing date <i>(day/month/year)</i> <b>28 October 2004</b>		Priority date <i>(day/month/year)</i> <b>28 October 2003</b>	
International Patent Classification (IPC) or both national classification and IPC <b>Int. Cl. <sup>7</sup>    B23B 45/02, B25B 21/00, B25F 5/00, 5/02, B26B 25/00, B27B 9/00</b>					
Applicant <b>IBEX INDUSTRIES LIMITED et al</b>					

**1. This opinion contains indications relating to the following items:**

- |                                     |              |  |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the opinion   |
| <input type="checkbox"/>            | Box No. II   | Priority   |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability   |
| <input checked="" type="checkbox"/> | Box No. IV   | Lack of unity of invention   |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited  |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application   |
| <input type="checkbox"/>            | Box No. VIII | Certain observations on the international application  |

**2. FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>JASON PREMNATH</b> Telephone No. (02) 6283 2127
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WRITTEN OPINION OF THE  
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International application No.

PCT/NZ2004/000269

Box No. I      Basis of the opinion

- .. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
- a. type of material
- ☐ a sequence listing
- ☐ table(s) related to the sequence listing
- b. format of material
- ☐ in written format
- ☐ in computer readable form
- c. time of filing/furnishing
- ☐ contained in the international application as filed.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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International application No.

**PCT/NZ2004/000269**

**x No. IV      Lack of unity of invention**

1. ☐ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
  - ☐ paid additional fees
  - ☐ paid additional fees under protest
  - ☐ not paid additional fees
2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
  - ☐ complied with
  - ☐ not complied with for the following reasons:
    1. Claim 1 relates to a hand tool. In claim 1 it is considered that "brushless DC motor" comprises the first special technical feature
    2. Claims 2, 4 - 44 relate to a hand tool. In claims 2, 4 - 44 it is considered that "fluid inlet port, fluid outlet port and ducting means" comprises the second special technical feature

Since these groups of claims do not share any of the special technical features identified, a technical relationship between the inventions does not exist. Accordingly the claims do not relate to one invention or to a single inventive concept.
4. This opinion has been established in respect of the following parts of the international application:
  - ☒ all parts
  - ☐ the parts relating to claims Nos.

**WRITTEN OPINION OF THE  
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International application No.

**PCT/NZ2004/000269**

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims	<b>YES</b>
	Claims <b>1 - 44</b>	<b>NO</b>
Inventive step (IS)	Claims	<b>YES</b>
	Claims <b>1 - 44</b>	<b>NO</b>
Industrial applicability (IA)	Claims <b>1 - 44</b>	<b>YES</b>
	Claims	<b>NO</b>

**2. Citations and explanations:**

**Novelty (N) and Inventive Step (IS)**

The invention is not novel and is not inventive when compared with one of the following documents mentioned in the International Search Report.

D1) US 2003/0121685 (claim 1)

D2) US 2003/0196824 (claim 1)

D3) US 6127751(claim 2 - 44)

D4) US 6543549 (claim 2 - 44)

The use of a brushless motor in a hand tool is considered to be very common and considered to lack novelty and inventive step. Further D1 (see abstract) and D2 (see para 0064) disclose all the essential features of the invention claimed in claim 1 in particular a hand tool comprising a brushless DC motor.

D3 discloses all the essential features of the invention claimed in claim 2. D3 discloses a hand tool comprising:

- a) a body (1)
- b) a motor (11)
- c) a void space (4, see the figure) between the motor and the body
- d) a fluid inlet port (5, 6) and a fluid outlet port (8)
- e) a ducting means (3)

Similarly D4 also discloses all the essential features of claim 2.

The additional features mentioned in the claims 3 - 44 are either disclosed in the documents D3 and D4 mentioned above or are considered to be inessential features which do not significantly contribute to the working of the invention.

Accordingly claims 1 – 44 are not novel and considered to lack an inventive step.